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10/644,606

08/20/2003

Robert A. Contestabile

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7590

03/28/2005

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EXAMINER

POPE, DARYL C

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/644,606

**Applicant(s)**

CONTESTABILE, ROBERT A.

**Examiner**

DARYL C POPE

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6 and 9-43 is/are rejected.
- 7) ☒ Claim(s) 2-5, 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/20/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 line 4, the phrase "at one over more predetermined frequencies" is confusing and should be defined with better clarity.

### **ART REJECTION:**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1,6,9-25,28,30-33, and 36-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al(6,239,700) in view of Brown et al(6,838,998).**

-- In considering claims 1,16-17,23-25,30-32, and 36-43 the claimed subject matter that is met by Hoffman et al(Hoffman) includes:

1) the transmitter worn by the client that transmits status data is met by the remote alarm switch unit(40) which transmits a periodic status signal(see: column 9, lines 27-34);

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2) the client tracking unit that comprises a wireless voice and data communication device, receiver, and GPS receiver is met by the portable signaling unit which includes (data to voice switch(114) in conjunction with cellular transmitter(110); radio receiver(116) which communicates with unit(40), and GPS receiver(100);

3) the monitoring center for receiving and storing status data and GPS data in a database is met by the central dispatch station(80) including computer system(90) including client database which receives status and GPS data from the portable signaling unit(see: column 12, lines 45-56; column 3, lines 24-42);

4) the wireless communication link is met by the cellular telephone system(70).

**- Hoffman does not show:**

1) the web server communicating with the database of the monitoring center;

2) the wireless portable monitoring device comprising a wireless voice and data communication device and a web browser.

Use of means for monitoring an individual including a web browser is well known in the art. In related art, Brown et al(Brown) discloses a multi-user global position tracking system which utilizes the Internet(14) and web host B to monitor and track desired individuals via user terminal(17), column 7, lines 50 et seq). Since the use of user terminals for initiating tracking requests via a web server is well known as seen by Brown, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the user terminal(17) and Web host B of Brown into the system of Hoffman, since this would have enhanced the monitoring capabilities of

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Hoffman such that authorized user's as well as the central dispatch would have been able to monitor individuals as desired.

Furthermore, the examiner takes Official Notice, that in the mobile telephone art, use of mobile phones having internet access is well known, and therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a mobile telephone into the user terminal(17) of Brown which would have been incorporated into the system of Hoffman, since this would have allowed mobility for the terminal, and not confined the terminal to a stationary position.

-- In considering **claims 6,28, and 33** it would have been obvious to one of ordinary skill in the art at the time the invention was made to communicate data over first, second, or any amount of frequencies as desired that would have successfully communicated information in the system with the most optimal results.

As well, all other claimed subject matter is met as discussed in claims 1 and 23 above, respectively.

-- **Claim 9** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the transmitter comprising a strap, housing enclosing electronics and a battery, snap on base plate so as to lock the housing strap and base plate together is met by the transmitter(40) in the form of wristband assembly including strap and housing as seen in figures 3A and 3B, electronics(44,46,56,58), battery(48), and clasp portion(54)which engages the strap and provides a closed circuit(see: column 9, lines 13-26).

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-- In considering **claim 10**, use of disposable base plates is well known, and therefore it would have been obvious to one of ordinary skill in the art to utilize disposable base plates in the device of Hoffman, since this would have ensured that properly operating clasp portions would have been utilized for each person that the device would have been attached to.

As well, all other claimed subject matter is met as discussed in claim 9 above.

-- In considering **claim 11**, although not specifically shown, it would have been obvious that the controller(106) of the unit(20) of Hoffman would have included software that monitors and reports transmitter proximity, strap status, and battery status, since the micro-controller(106) receives signals from missing pulse detector(124)(which would have provided a signal indicative of proximity to unit(40), column 9, lines 41-47), remote alarm radio receiver(116)(which would have provided a signal indicative of strap status, column 9, lines 20-26), and low battery sensing circuit(122), and therefore would have required software to interpret these signals so as to report the signals to the dispatch station(80) as necessary.

As well, all other claimed subject matter is met as discussed in claim 1 above.

-- **Claim 12** recites subject matter that is met by Hoffman as discussed in claim 1 above, as well as:

1) the memory that stores contact names and telephone numbers is met by the cellular telephone circuit(110, column 9, lines 66-67; column 10 lines 1-5).

With regards to the changeable transmitter identification data, Hoffman discloses a programmed unit serial identification code circuit(104, column 9, line 65). Although a

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changeable identification unit is not specifically stated, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the circuit(104) of Hoffman to be changeable, since it is programmable, and therefore allowing it to be changeable would have provided versatility to the unit(20) so as to be useable with various different people as necessary.

With regards to the memory for storing zone points, it would have been obvious that the timer circuit(56) would have constituted a memory for storing zone points, since the timer establishes the interval of the periodic signal that establishes location range between the unit(40) and the unit(20) as desired(see: column 9 lines 27-33).

-- In considering **claims 13-15**, the examiner takes Official Notice, that in the mobile communications art, use of mobile units that utilize GSM, SMS, and software that selectively displays SMS messages is well known, therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate any of the above stated systems into the devices of Hoffman, since this would have enhanced the communication capabilities of the units(20) so as to better provide signals to users in the system.

As well, all other claimed subject matter is met as discussed in claim 1 above.

-- **Claims 18-19** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the claimed monitoring center comprising integrated voice response processor multi-level GPS and RF processors is met by the computer system(90) and intelligent

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telephone system(84) of the dispatch station(80) which processes and validates received data(see: column 13, lines 24-58).

-- **Claims 20-22** recite subject matter that is met as discussed in claim 1 above, as well as:

1) the display of clients in real time is met by the display console(92) of the computer system(90) providing real-time plotting of monitoring coordinates of a signaling unit(see: column 13, lines 49-56).

**5. Claims 26-27,29, and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al(Hoffman) in view of Brown et al(Brown) as applied to claim 23 above, and further in view of Defant et al(6,774,799).**

-- **Claim 26** recites subject matter that is met as discussed in claim 23 above, except for:

1) the docking the wireless voice and data communication device to a monitoring unit;

2) transmitting data and position information by way of land communication lines.

In related art, Defant et al(Defant) shows a house arrest tracker system which utilizes a docking station for receiving a tracking device(10) and transmits data and information to a monitoring center via land line modem(98) and public telephone system(64, column 2, lines 4-8). Since the use of a docking station is well known, as seen by Defant, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the docking station(12) and communication circuitry of Defant into the drop in charger(36) of Hoffman since this would have



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provided another means of communicating data to the central dispatch concerning the status of a monitored client.

-- In considering **claims 27,29**, and **34-35**, the examiner takes Official Notice, that in the mobile communications art, use of mobile units that utilize VXML and SMS are well known, therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate any of the above stated systems into the devices of Hoffman, since this would have enhanced the communication capabilities of the units(20) so as to better provide signals to users in the system.

***Allowable Subject Matter***

6. Claims 2-5, and 7-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

With regards to the allowability of claim 2, the prior art does not teach a separate monitoring unit which receives data from the transmitter when in proximity thereof, in conjunction with all other limitations of claim 1.

The allowability of claim 3,5, and 7 rest on being dependent on claim 2 as discussed above.

With regards to the allowability of claim 4, claim 4 is allowable for the reasons as discussed in claim 2 above, and further, the prior art does not teach a receiver having an extended reception range relative to the transmitter.

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With regards to the allowability of claim 8, the prior art does not teach a field verification unit that receives data transmitted by the transmitter so as to remotely monitor clients with transmitters within range, in conjunction with all other limitations of claim 1.

**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARYL C POPE whose telephone number is (571) 272-2959. The examiner can normally be reached on M-TH 8:00-6:30.

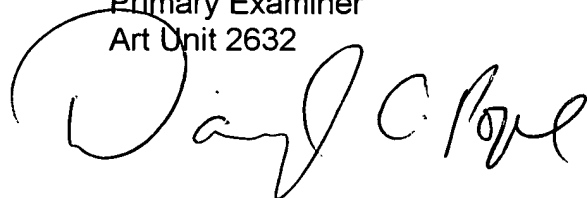
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DANIEL WU can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daryl C. Pope

March 20, 2005

DARYL C POPE  
Primary Examiner  
Art Unit 2632

A handwritten signature in black ink, appearing to read "Daryl C. Pope", is written over the printed name and title of the examiner.